IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 474 OF 2005

Amar Bahadur Rao ...Petitioner

Versus

Malabar Co-Op. Hsg. Society Ltd. ...Respondent

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Mr. Sanjay Jain i/b Pillai & Co. for Petitioner

Mr. Cyrus Ardeshiv i/b M/s Kanga & Co. for Respondent.

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CORAM: B. H. MARLAPALLE, J.

DATED: 7TH FEBRUARY, 2005

P.C.:-

1. Heard Mr. Jain, the learned counsel for the petitioner.

2. The petitioner was removed from service some times in January, 2001 and consequently he has not been in the employment of the respondent society as a Supervisor from February, 2001. It does not appear that the said termination has been challenged before any competent court and any such proceedings are pending before such court.

3. The Co-operative Court has recorded the findings that on his termination from service, he has

unauthorisedly occupied the subject room admeasuring 80 Sq. Ft.. The Co-operative Court took into consideration the prevailing market rate and fixed the amount of Rs.9,500/- as a royalty amount. On one hand, the petitioner continues to be in unauthorised possession of the room and on the other hand he claims that the royalty cannot be more than Rs.1,000/- per month. He proceeded to challenge the order passed by the Co-operative Court in appeal filed belatedly and the application for condonation of delay was rejected by the lower appellate Court. The proceedings initiated by the respondent society are being misused by the petitioner to continue to occupy the subject premises unauthorizedly. It would not be proper for this Court to decide about the rent for the subject area and the Co-operative Court has calculated the said amount and fixed at Rs.9,500/-. The best way for the petitioner is to hand over the possession of the subject room to the society and the present possession taken over by the Receiver on paper is not going to assist his cause. No case is made out to interfere with the order passed by the Co-operative Court. Hence, the petition is rejected summarily.